

Message Text

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ACTION AF-10

INFO OCT-01 EUR-12 IO-13 ISO-00 CIAE-00 DODE-00 PM-05
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FM AMEMBASSY PRETORIA
TO SECSTATE WASHDC NIACT IMMEDIATE 1828
USMISSION USUN NEW YORK NIACT IMMEDIATE
INFO AMEMBASSY BONN IMMEDIATE
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AMEMBASSY LONDON IMMEDIATE
AMEMBASSY OTTAWA IMMEDIATE
AMEMBASSY LUSAKA IMMEDIATE
AMEMBASSY DAR ES SALAAM IMMEDIATE
AMEMBASSY MAPUTO IMMEDIATE
AMEMBASSY LAGOS IMMEDIATE
AMEMBASSY LIBREVILLE IMMEDIATE
AMEMBASSY GABORONE IMMEDIATE

C O N F I D E N T I A L SECTION 1 OF 3 PRETORIA 4178

E.O. 11652: GDS
TAGS: PORG, SF, WA
SUBJECT: NAMIBIA/ SAG REJECTS WALVIS BAY RESOLUTION -
VORSTER LETTER

THE FOLLOWING IS THE TEXT OF PRIME MINISTER VORSTER'S LETTER OF
JULY 23 ADDRESSED TO THE FIVE HEADS OF GOVERNMENT AND GIVEN TO THE
PRETORIA FIVE BY FOREIGN MINISTER BOTHA THIS EVENING, JULY 23
(SEPTEL). THE LETTER ACKNOWLEDGES RECEIPT OF THE LETTERS OF THE
FIVE HEADS OF GOVERNMENT TO VORSTER ON JULY 17 AND IS DEVOTED TO
THE WALVIS BAY DRAFT RESOLUTION WHICH WAS GIVEN TO THE SOUTH
AFRICAN CHARGE EKSTEEN IN NEW YORK ON JULY 22 AND WHICH VORSTER'S
LETTER CATEGORICALLY REJECTS AS A BREACH OF PREVIOUS AGREEMENT
AND UNACCEPTABLE.

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BEGIN TEXT:

1. I WISH TO ACKNOWLEDGE RECEIPT OF YOUR LETTER DATED
17 JULY 1978.
2. HAVING NOTED WITH SERIOUS CONCERN THE CONTENTS OF THE
MESSAGE CONVEYED TO MY FOREIGN MINISTER BY THE AMBASSADORS

OF THE FIVE ON 15 JULY 1978, I WAS HEARTENED TO RECEIVED YOUR LETTER, WHICH MORE ACCURATELY REFLECTS THE UNDERSTANDING AT WHICH THE SOUTH AFRICAN GOVERNMENT AND THE GOVERNMENTS OF THE FIVE HAD ARRIVED. AS YOU RIGHTLY POINT OUT, THIS UNDERSTANDING WAS, IN THE WORDS OF CANADIAN FOREIGN MINISTER JAMIESON IN THE GENERAL ASSEMBLY ON 25 APRIL 1978, THAT "ALL ASPECTS OF THE QUESTION OF WALVIS BAY MUST BE SUBJECT TO DISCUSSION BETWEEN THE SOUTH AFRICAN GOVERNMENT AND THE ELECTED GOVERNMENT OF NAMIBIA". YOU GO ON TO STATE THAT YOUR GOVERNMENT CONTINUES TO MAINTAIN THIS VIEW AND HAS RESISTED ALL PRESSURES TO INCLUDE THE QUESTION OF WALVIS BAY AS PART OF THE PROPOSAL.

3. THROUGHOUT THE MONTHS OF DISCUSSION PRECEDING ACCEPTANCE OF YOUR PROPOSAL I MADE IT CLEAR TO YOUR REPRESENTATIVES THAT I WAS NOT PREPARED TO CONTINUE WITH NEGOTIATIONS FOR A SETTLEMENT OF THE SOUTH WEST AFRICA QUESTION IF THE ISSUE OF WALVIS BAY WERE TO BE INTRODUCED INTO THE NEGOTIATIONS OR IN ANY SETTLEMENT PROPOSAL. YOUR REPRESENTATIVES ACKNOWLEDGED ON MORE THAN ONE OCCASION IN MY PRESENCE THAT THEY ACCEPTED THIS BASIS FOR OUR NEGOTIATIONS. INDEED, DURING THE DISCUSSIONS IN CAPE TOWN IN JUNE 1977 YOUR REPRESENTATIVES CATEGORICALLY AGREED THAT THEY WOULD NOT WISH TO ADDRESS THE SUBSTANCE OF THE QUESTION OF WALVIS BAY.

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4. THEY ACKNOWLEDGED THAT WALVIS BAY WAS NOT PART AND PARCEL OF SOUTH WEST AFRICA, ALLUDING MERELY TO THE POSSIBILITY THAT A CONTROVERSY MIGHT ARISE ABOUT THE ISSUE AT SOME FUTURE STAGE. THEY ACKNOWLEDGED THAT THEY WERE NOT ARGUING AT ALL ABOUT THE POLITICAL AND LEGAL SITUATION IN RESPECT OF WALVIS BAY. YOUR REPRESENTATIVES ACKNOWLEDGED THAT THEY DID NOT DENY THE RIGHTS OF SOUTH AFRICA FROM A LEGAL POINT OF VIEW. I ASKED YOUR REPRESENTATIVES WHETHER THEY MEANT THAT EITHER THE UNITED NATIONS OR THEY THEMSELVES OR ANYBODY ELSE WOULD LAY CLAIM TO WALVIS BAY AS NOT BEING PART OF THE REPUBLIC OF SOUTH AFRICA. THEY REPLIED IN THE NEGATIVE AND STATED THAT THEY WERE NOT ADDRESSING THE MERITS OF THE CASE. ON THIS, AND ON VARIOUS OTHER OCCASIONS, I ALSO INFORMED YOUR REPRESENTATIVES THAT ANY DISCUSSION OF WALVIS BAY WOULD LEAD TO THE IMMEDIATE TERMINATION OF THE NEGOTIATIONS.

5. THERE CAN THUS BE NO DOUBT THAT WE AGREED, AND THAT WE CLEARLY AND UNAMBIGUOUSLY AGREED, THAT YOU WOULD TAKE NO STAND ONE WAY OR THE OTHER ON THE ISSUE OF WALVIS BAY. IN THIS CONNECTION, YOU WILL RECALL THAT AT THE TIME OF THE NEW YORK TALKS YOU PROPOSED TO DISPOSE OF THE QUESTION

OF WALVIS BAY IN A PARAGRAPH WHICH STATED THAT ACCEPTANCE OF THE PROPOSAL WOULD IN NO WAY PREJUDICE THE TERRITORIAL CLAIMS OF ANY PARTY. HOWEVER, AT THE INSISTENCE OF SOUTH AFRICA IT WAS AGREED TO DELETE EVEN THIS IMPLIED REFERENCE TO THE ISSUE OF WALVIS BAY.

6. FURTHERMORE, IN ITS RESPONSE TO THE FIVE'S MESSAGE OF 22 JUNE 1978 THE SOUTH AFRICAN GOVERNMENT AGAIN DEALT IN SOME DETAIL WITH THE ISSUE OF WALVIS BAY. IT SAID INTER ALIA: "IN REGARD TO WALVIS BAY THE SOUTH AFRICAN GOVERNMENT WISHES TO REMIND THE FIVE GOVERNMENTS THAT IN THE COURSE OF THE EARLIER DISCUSSIONS THE FIVE HAD AGREED THAT THE ISSUE OF WALVIS BAY WOULD NOT FORM PART OF THEIR PROPOSAL, BEING A MATTER WHICH COULD FORM THE SUBJECT OF DISCUSSION ON A VOLUNTARY BASIS BETWEEN SOUTH AFRICA
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AND THE NEW GOVERNMENT OF SOUTH WEST AFRICA. AFTER EXTENSIVE CONSULTATION THEY PRESENTED THE SOUTH AFRICAN GOVERNMENT WITH THE

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TEXT OF A STATEMENT WHICH THEY WOULD MAKE IN THE SECURITY COUNCIL IF THE NEED AROSE. THE TEXT READ AS FOLLOWS:
'THE FIVE NOTED CONFLICTING POSITIONS ON WALVIS BAY. WE ALSO NOTED THAT THE STRENGTH OF FORCES WOULD NOT BE INCREASED. ALSO THE FIVE CONSIDER THAT ALL ASPECTS OF THE QUESTION OF WALVIS BAY SHOULD BE SUBJECT TO DISCUSSION BETWEEN THE SOUTH AFRICAN GOVERNMENT AND THE FUTURE GOVERNMENT OF NAMIBIA. DURING THE TRANSITIONAL PROCESS THE FIVE WOULD EXPECT THAT PROVISIONS WOULD BE MADE TO ALLOW NAMIBIANS OF WALVIS BAY TO PARTICIPATE IN THE POLITICAL PROCESS DESCRIBED IN THE PROPOSAL.'

7. THE SOUTH AFRICAN GOVERNMENT POINTED OUT THAT ONLY THE FOLLOWING SENTENCE WAS MATERIAL, I.E.
'THE FIVE CONSIDER THAT ALL ASPECTS OF THE
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QUESTION OF WALVIS BAY SHOULD BE SUBJECT TO DISCUSSION BETWEEN THE SOUTH AFRICAN GOVERNMENT AND THE FUTURE GOVERNMENT OF NAMIBIA'.
THE FIVE, HOWEVER, INDICATED THAT THEY MIGHT HAVE TO USE THE WHOLE STATEMENT IF THIS BECAME NECESSARY. THE SOUTH AFRICAN GOVERNMENT EMPHASIZED THAT THE UNDERSTANDING IN REGARD TO THE HANDLING OF THE WALVIS BAY QUESTION WHICH HAD BEEN REACHED IN GOOD FAITH PLAYED A VERY IMPORTANT PART IN THE SOUTH AFRICAN GOVERNMENT'S ACCEPTANCE OF THE PROPOSAL OF THE FIVE. INDEED, THE SOUTH AFRICAN PRIME MINISTER INDICATED UNEQUIVOCALLY AT THE TIME THAT IF THERE WERE ANY ATTEMPT TO INTRODUCE THE WALVIS BAY ISSUE INTO THE PROPOSAL, OR TO TRY TO PREJUDGE ANY FUTURE DISCUSSIONS, HE WOULD HAVE HAD TO TERMINATE THE NEGOTIATIONS FORTHWITH. THE FIVE HAD REPEATEDLY ACKNOWLEDGED THAT THEY WERE AWARE OF THIS BASIC POSITION OF THE SOUTH AFRICAN GOVERNMENT.

8. THE SOUTH AFRICAN GOVERNMENT CONTINUES TO REGARD THE UNDERSTANDING ON WALVIS BAY AS AN IMPORTANT AND MATERIAL PART OF THE PROPOSAL AS A WHOLE, AND ASSUMES THAT THE FIVE WILL HANDLE THIS ISSUE IN THE SECURITY COUNCIL IN THE WAY THEY INDICATED TO US BEFORE OUR ACCEPTANCE OF THEIR PROPOSAL."

9. I WOULD ALSO LIKE TO DRAW YOUR ATTENTION TO A COMMUNICATION ADDRESSED TO THE SECRETARY GENERAL ON 2 MAY 1978 BY MY FOREIGN MINISTER. IN REGARD TO THE GEOGRAPHIC EXTENT AND LEGAL POSITION OF SOUTH WEST AFRICA HE POINTED OUT:
"FOR OVER THIRTY YEARS THE UNITED NATIONS HAS CONCERNED ITSELF

WITH THE QUESTION OF SOUTH WEST AFRICA, A TERRITORY WHOSE
GEOGRAPHIC EXTENT HAS THROUGH THE YEARS BEEN CLEARLY DEFINED,
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ALSO IN DOCUMENTS OF THE LEAGUE OF NATIONS AND THE UNITED
NATIONS ITSELF.

BASED ON TREATIES WHICH ALSO DEFINE THE BORDERS OF OTHER
COUNTRIES IN THE REGION THE TERRITORY'S BOUNDARIES HAVE BEEN
INTERNATIONALLY RECOGNISED FOR ALMOST A HUNDRED YEARS.
FURTHERMORE, MOST AFRO-ASIAN AND LATIN AMERICAN COUNTRIES HAVE
ACCEPTED THAT COLONIAL BOUNDARIES MUST, UNDER INTERNATIONAL LAW,
CONTINUE TO BE THE BOUNDARIES AFTER INDEPENDENCE. MOREOVER, ARTICLE
11 OF THE MANIFESTO ON SOUTHERN AFRICA APPROVED BY THE CONFERENCE
OF EAST AND CENTRAL AFRICAN STATES AT LUSAKA, ZAMBIA, ON 16 APRIL
1969 AND ADOPTED BY THE ASSEMBLY OF HEADS OF STATE AND GOVERNMENT
AT ADDIS ABABA, 6-10 SEPTEMBER 1969, STATES IN PART:
'AS FAR AS WE ARE CONCERNED THE PRESENT BOUNDARIES OF THE STATES
OF SOUTHERN AFRICA ARE THE BOUNDARIES OF WHAT WILL BE FREE AND
INDEPENDENT AFRICAN STATES.'. THIS MANIFESTO WAS WELCOMED BY
THE GENERAL ASSEMBLY ITSELF AS RESOLUTION 2505 (XXIV) ON
20 NOVEMBER 1969. NO ENTITY CAN CLAIM THE RIGHT TO ADD TO OR TO
DIMINISH THE AREA OF THE FORMER MANDATED TERRITORY OF SOUTH
WEST AFRICA.

UNDER INTERNATIONAL LAW SOUTH AFRICA HAS SOVEREIGNTY OVER WALVIS
BAY. WHATEVER ARRANGEMENT MIGHT BE REACHED BETWEEN SOUTH AFRICA
AND A DULY ELECTED GOVERNMENT OF AN INDEPENDENT SOUTH WEST AFRICA,
IS A MATTER FOR THESE TWO GOVERNMENTS."

10. I INTERPRETED YOUR LETTER OF 17 JULY 1978 AS EXACTLY
REFLECTING THIS UNDERSTANDING. IT WAS, THEREFORE, WITH
A PROFOUND SENSE OF SHOCK AND AMAZEMENT THAT I LEARNED
OF THE INTENTION TO INTRODUCE A RESOLUTION IN THE SECURITY
COUNCIL SUPPORTED BY THE FIVE WHICH COMPLETELY NEGATES
THIS UNDERSTANDING. MY FIRST REACTION WAS THAT IT COULD
NOT POSSIBLY BE TRUE. I STILL BELIEVE THAT IT CANNOT BE
TRUE, A BELIEF WHICH IS STRENGTHENED BY THE FACT THAT
THE FIVE DID NOT VOTE FOR RESOLUTION 32/9D DECLARING
THAT WALVIS BAY IS AN INTEGRAL PART OF SOUTH WEST AFRICA.
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THE DRAFT RESOLUTION APPARENTLY READS AS FOLLOWS:
"RECALLING ITS RESOLUTIONS 385 (1976) AND
.... (1978);

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AMEMBASSY GABORONE IMMEDIATE

C O N F I D E N T I A L SECTION 3 OF 3 PRETORIA 4178

REAFFIRMING IN PARTICULAR THE PROVISIONS
OF SECURITY COUNCIL RESOLUTION 385 (1976)
RELATING TO THE TERRITORIAL INTEGRITY AND
UNITY OF NAMIBIA;
TAKING NOTE OF OPERATIVE PARAGRAPH 7 OF
GENERAL ASSEMBLY RESOLUTION 32/9D WHICH
DECLARED THAT WALVIS BAY IS AN INTEGRAL
PART OF NAMIBIA;

1. DECLARES THAT THE TERRITORIAL INTEGRITY AND UNITY OF NAMIBIA
MUST BE ASSURED THROUGH THE REINTEGRATION OF WALVIS BAY WITHIN
ITS TERRITORY;
 2. DECIDES TO LEND ITS FULL SUPPORT TO THE INITIATION OF STEPS
NECESSARY TO ENSURE EARLY REINTEGRATION OF WALVIS BAY INTO NAMIBIA;
 3. DECLARES THAT, PENDING THE ATTAINMENT OF THIS OBJECTIVE,
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SOUTH AFRICA MUST NOT USE WALVIS BAY IN ANY MANNER PREJUDICIAL TO THE INDEPENDENCE OF NAMIBIA OR THE VIABILITY OF ITS ECONOMY;
4. DECIDES TO REMAIN SEIZED OF THE MATTER UNTIL WALVIS BAY IS FULLY REINTEGRATED INTO NAMIBIA."

11. IN DELICATELY BALANCED NEGOTIATIONS OF THE NATURE WE HAVE CONDUCTED WITH YOUR REPRESENTATIVES THE SINGLE FUNDAMENTAL ESSENTIAL TO THE SUCCESS OF THE EFFORT IS GOOD FAITH AND INTEGRITY. IN REGARD TO WALVIS BAY WE ARE CONFRONTED BY A BLATANT REJECTION OF A VITAL PART OF AN AGREEMENT ENTERED INTO IN GOOD FAITH. WALVIS BAY IS UNCHALLENGEABLY PART OF THE TERRITORY OF THE SOVEREIGN STATE OF SOUTH AFRICA. THIS HAS NEVER BEEN SERIOUSLY CHALLENGED BY ANY STATE WITH A LEGAL TRADITION, LEAST OF ALL YOUR OWN. YOUR REPRESENTATIVES HAVE REPEATEDLY AND CONSISTENTLY AGREED THAT WALVIS BAY WOULD BE EXCLUDED FROM THE AMBIT OF THE NEGOTIATIONS AND THE SETTLEMENT PROPOSAL. IT WAS ON THIS CLEAR UNDERSTANDING THAT SOUTH AFRICA COOPERATED WITH THE FIVE WHICH LENT THEIR GOOD OFFICES TO THE PARTIES TO THE SOUTH WEST AFRICA ISSUE. IT WAS ON THE STRENGTH OF YOUR ASSURANCES THAT MY GOVERNMENT ACCEPTED YOUR PROPOSAL. WHERE DOES THE WORLD STAND IF NO RELIANCE CAN BE PLACED ON THE WORD OF LEADING WESTERN POWERS? HOW RELIABLE ARE ALL THE TREATIES, COMMITMENTS AND AGREEMENTS OF THESE POWERS IF THIS IS TO SERVE AS AN EXAMPLE?

12. IF THE ABOVE DRAFT RESOLUTION IS, IN FACT, TO BE INTRODUCED AND TO RECEIVE THE SUPPORT OF THE FIVE, IT WOULD MAKE A MOCKERY OF ALL THE DISCUSSION WE HAVE HAD SO FAR. SEEN IN THE CONTEXT OF THE PROPOSAL AS A WHOLE, THE DRAFT RESOLUTION CONSTITUTES AN OBVIOUS ATTEMPT TO CONFIDENTIAL

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CIRCUMVENT THE PROPOSAL ITSELF. CONSEQUENTLY YOUR SUPPORT FOR THE DRAFT RESOLUTION MUST RAISE GRAVE DOUBTS AS TO THE SPIRIT AND MANNER IN WHICH THE FIVE WOULD STAND BEHIND THE PROPOSAL. IT WOULD SO DESTROY CONFIDENCE THAT IT WOULD BECOME IMPOSSIBLE TO COOPERATE WITH THE FIVE IN IMPLEMENTING THEIR PROPOSAL.

13. ON THE OTHER HAND THE SOUTH AFRICAN GOVERNMENT FOR ITS PART STANDS BY THE PROPOSAL, AS WELL AS ITS UNDERTAKINGS, INCLUDING THOSE IN REGARD TO WALVIS BAY. THE SOUTH AFRICAN GOVERNMENT REMAINS IRREVOCABLY COMMITTED TO A PEACEFUL SOLUTION FOR SOUTH WEST AFRICA. IT WOULD, ACCORDINGLY, HAVE NO OBJECTION TO A RESOLUTION OF THE SECURITY COUNCIL WHICH REFLECTS THE POSITION UPON WHICH WE STAND AGREED IN REGARD TO WALVIS BAY. INDEED, IF THE

DRAFT RESOLUTION REFLECTED THE CONTENTS OF YOUR LETTER OF 17 JULY 1978, MY GOVERNMENT WOULD NOT OBJECT TO IT. HOWEVER, WE CATEGORICALLY REJECT ANY RESOLUTION, SUCH AS THE ONE QUOTED ABOVE, WHICH SEEKS TO PREJUDGE THE ISSUE OF WALVIS BAY AND WHICH UNQUESTIONABLY AMOUNTS TO A SUBSTANTIAL AMENDMENT OF THE WHOLE BASIS ON WHICH MY GOVERNMENT AGREED TO THE PROPOSAL, A FACT KNOWN TO YOU AND ACCEPTED BY YOU.

14. WE FULLY AGREE THAT THE TERRITORIAL INTEGRITY OF SOUTH WEST AFRICA MUST BE PRESERVED, BUT IN EXACTLY THE SAME WAY AS MUST THAT OF THE REPUBLIC OF SOUTH AFRICA. IF ANY ATTEMPT IS MADE TO MODIFY THE EXISTING SITUATION WORLD-WIDE RELATING TO ENCLAVES OR ISLANDS IN THE IMMEDIATE VICINITY OF THE MAINLAND IN SUCH A WAY THAT THEY ARE REQUIRED TO FORM PART OF THE CONTIGUOUS OR MAINLAND TERRITORY CONCERNED, THEN ALL SUCH CASES MUST BE REVIEWED SIMULTANEOUSLY ON A GLOBAL BASIS AND BE DEALT WITH IN THE SAME MANNER. IF, THEREFORE, THIS IS THE INTENTION, AND THE RESPONSIBLE POWERS ARE WILLING TO SUBMIT TO A NEW ARRANGEMENT THE CASES, FOR EXAMPLE, OF GIBRALTAR, CABINDA, HONG KONG, NORTHERN IRELAND, CONFIDENTIAL

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BERLIN, BELIZE, PANAMA CANAL, GUANTANAMO BAY AND MACAO, TO MENTION ONLY SOME, THEN WE FOR OUR PART WOULD ALSO BE PREPARED TO HAVE THE CASE OF WALVIS BAY EXAMINED ON THE SAME BASIS. END TEXT.
EDMONDSON

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